

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TRACEY DOWLING,	:	
	:	
Plaintiff,	:	CIVIL ACTION NO. 02-CV-3181
	:	
vs.	:	CIVIL ACTION
	:	
THE HOME DEPOT,	:	MOTION FOR LEAVE TO FILE REPLY
	:	PAPERS IN FURTHER SUPPORT OF
Defendant.	:	DEFENDANT'S MOTION FOR
	:	<u>SUMMARY JUDGMENT</u>
	:	

Defendant Home Depot U.S.A., Inc. (improperly identified in the Complaint as "The Home Depot") (referred to herein as "Home Depot" or "defendant"), by and through its attorneys, Carpenter, Bennett & Morrissey, hereby moves the Court to submit reply papers in further support of its motion for summary judgment, and in support thereof says:

1. Pending before the Court is Home Depot's Motion for Summary Judgment pursuant to Fed. R. Civ. P. 56(b).
2. In opposition to the summary judgment motion, plaintiff Tracey Dowling filed a Brief in Opposition to Defendant's Motion for Summary Judgment, and Certifications of Tracey Dowling and Joseph Bell.
3. Plaintiff's opposition papers contain inaccuracies with respect to the record evidence. In responding to Home Depot's statement of facts, plaintiff relies on her own Certification to dispute certain paragraphs of the statement of facts. Plaintiff's Certification,

however, is replete with argument, hearsay, factual and legal conclusions, and most notably, contradicts plaintiff's own sworn deposition testimony.

4. Home Depot respectfully requests that the Court accept for consideration a Reply Brief that Home Depot will file no later than December 11, 2002 to correct plaintiff's misstatements and point out plaintiff's contradictions. The time requested is necessary to enable Home Depot to adequately address plaintiff's arguments in opposition to the summary judgment motion.

WHEREFORE, defendant Home Depot U.S.A., Inc. respectfully requests that this Court grant this Motion and permit defendant leave to file reply papers in further support of its Motion for Summary Judgment.

CARPENTER, BENNETT & MORRISSEY
Attorneys for Defendant
Home Depot U.S.A., Inc.

By: _____
Patrick G. Brady, Pro Hac Vice
Three Gateway Center
100 Mulberry Street
Newark, New Jersey 07102-4079
Phone: (973) 622-7711
Fax: (973) 622-5314

Dated: December 3, 2002

OF COUNSEL

Stephen N. Huntington, Esq.
Attorney I.D. No. 02540
HUNTINGTON HODGE & FRANKLIN, PC
Associate Counsel for Defendant Home Depot U.S.A., Inc.
1500 John F. Kennedy Blvd.
Suite 1032
Philadelphia, PA 19102
Phone: (215) 523-7900
Fax: (215) 523-7911